

**EVALUATION OF THE CERTIFICATE OF NEED APPLICATION SUBMITTED ON BEHALF OF
PACIFIC RETIREMENT SERVICES, INC. PROPOSING TO ESTABLISH A TWENTY-TWO BED
NURSING HOME AS PART OF THE CONTINUING CARE RETIREMENT COMMUNITY IN THE
CITY OF SEATTLE, WITHIN KING COUNTY**

PROJECT DESCRIPTION

Pacific Retirement Services, Inc. was founded in 1991 as a private, not-for-profit, community-based organization to provide various services and sponsor programs for the elderly, including residential facilities and health and welfare programs. Pacific Retirement Services, Inc. (PRS) is the parent and management company for 36 affiliated corporations; it is headquartered in Medford, Oregon. PRS operations are overseen by a nine-member executive staff and a board of directors made up of community members. [source: Application, Exhibit FF; PRS website]

The nine-member executive staff and their respective role in the corporation are listed below.

Thomas Becker	President
Thomas Brown	Executive Vice President, Construction and Start-Up
Jill Collins	Executive Vice President, Operations
Brian McLemore	Executive Vice President, Development and Marketing
Debbie Rayburn	Vice President of Health Services
Paul Riepma	Vice President of Marketing
Gerald Schoeggl	Executive Vice President, Finance
Steven Rinkle	Corporate Attorney
Kenneth Tharp	Corporate Attorney

[source: PRS website]

PRS is not a Washington State corporation. On January 5, 2005, PRS established a Washington non-profit corporation known as Mirabella. The purposes of the Mirabella corporation (Mirabella) is to develop and operate housing specially designed for the elderly, with arrangements for residents' health care and financial security, and otherwise promote the interests and serve the needs of the elderly. PRS is the sole member of Mirabella. Similar to PRS, Mirabella's operations are governed by a three-member board of directors¹ and two PRS executive staff.² For purposes of this evaluation, PRS is the applicant. [source: Application, cover letter, p1-2]

For this application, PRS proposes to establish a 44-bed nursing home within a continuing care retirement community (CCRC). The 44 beds would be established in two phases--22 beds in phase one and the remaining 22 beds in phase two. For ease in reference, this document will refer to the applicant as PRS, the CCRC as "Mirabella CCRC," and the proposed nursing home (NH) within the CCRC as "Mirabella NH."

The department uses the definition of a Type A CCRC found in WAC 246-310-010 and the guidance within the 1987 Washington State Health Plan to assist in its evaluation of a Type A CCRC. Though the state health plan was "sunset" in 1989, the department has concluded that it remains a reliable tool for evaluating Type A CCRC projects. The state health plan provides a definition of Type A CCRCs as well as providing guidance in the types of services expected to be provided and the process to be used by the applicant in establishing the nursing home portion of the CCRC.

¹ William Bagley, Chair; Len Merryman, Vice-Chair; and Harry Knight, Secretary/Treasurer.

² Thomas Becker and Gerald Schoeggl.

Washington Administrative Code (WAC) 246-310-010 defines CCRC as follows:

"Continuing care retirement community (CCRC)" means any of a variety of entities, unless excluded from the definition of health care facility under RCW [70.38.025](#)(6), which provides shelter and services based on continuing care contracts with its residents which:

- *Maintains for a period in excess of one year a CCRC contract with a resident which provides or arranges for at least the following specific services:*
 - *Independent living units;*
 - *Nursing home care with no limit on the number of medically needed days;*
 - *Assistance with activities of daily living;*
 - *Services equivalent in scope to either state chore services or Medicaid home health services;*
 - *Continues a contract, if a resident is no longer able to pay for services;*
 - *Offers services only to contractual residents with limited exception during a transition period; and*
 - *Holds the Medicaid program harmless from liability for costs of care, even if the resident depletes his or her personal resources.*

Under Certificate of Need rules and regulations, only the establishment of Mirabella NH requires prior review and approval, however, to ensure the success of the nursing home, the department must also consider the establishment of Mirabella CCRC as a whole. To that end, this evaluation will include the establishment of the CCRC, with a focus on the Mirabella NH.

The address for the CCRC is 116 Fairview Avenue North in the city of Seattle, within King County. The site is approximately 1.92 acres on one city block bounded by:

- Denny Way to the south;
- Fairview Avenue North to the west;
- John Street to the north; and
- Minor Avenue to the east.

[source: Application, p3]

Mirabella CCRC would be established in two phases which are broken down below.

Phase	# of Apartments	# of Boarding Home Units	# of Skilled Nursing Beds
Phase 1	212 units	35 units (includes assisted & dementia care)	22 beds
Phase 2	108 units	zero	22 beds
Totals	320 units	35 Units	44 beds

[source: Application, p3-4]

The CCRC would provide the following services to the residents under the terms of the residence and care agreements. In exchange for payment of a one-time, refundable entrance fee and ongoing payments of a monthly service fee, residents will be entitled to the following services and amenities, in addition to assisted living and/or nursing care:

- dining program;
- housekeeping services;
- planned activities;
- scheduled transportation;
- security;
- routine preventative maintenance and custodial services;
- basic cable television service and all utilities, except telephone;
- parking;
- access to on-site pool, spa, and fitness center; and
- various fitness and wellness programs (nominal fees may apply).

The applicant provided a detailed timeline for phase one and stated that the timeline for phase two depends primarily on the occupancy of phase one. [source: Application p4 and Appendix S; November 2, 2005, supplemental information, pp2-3]

Phase One

PRS has already begun marketing the CCRC to the community, which includes obtaining funding from potential residents. If this project is approved, PRS anticipates submitting design documents to the department's Construction Review Section by November 2006. Construction of the CCRC would begin approximately May 2007; and substantial completion of construction is expected on January 2009. Phase one would be operational approximately April 2009. Phase one consists of 212 apartments; 35 boarding home units; and the 22-bed nursing home. [source: Application p4 and Appendix S]

Phase Two

Prompts for beginning phase two of the project include: achieving 90% occupancy for phase one independent living units; continued or sufficient market demand for the proposed services within the defined market; access to adequate pre-development capital for phase two development; and availability of construction on permanent project financing prior to achieving 70% pre-sales for the independent living units in phase two. Marketing of phase two is anticipated to begin in late 2010 or early 2011; construction would begin January 2012 and be complete June 2013. Under this timeline, residents could begin moving in July 2013. [source: November 2, 2005, supplemental information, pp2-3]

At completion of phase two, the Mirabella CCRC would be operating 320 apartments, 35 boarding home units, and a 44-bed nursing home. It is noted that if this project is approved, in order to add the additional 22 nursing home beds proposed in phase two, the applicant must provide documentation demonstrating continued compliance with RCW 70.38.111(5).

The capital expenditure associated with the establishment of phase one--or the first 22 beds--of the Mirabella CCRC project is \$175,600,000, of that amount, \$7,129,000 is attributed to the 22-bed nursing home within the CCRC. [source: Application, p29]

APPLICABILITY OF CERTIFICATE OF NEED LAW

This project is subject to Certificate of Need review as the establishment of a skilled nursing facility that is owned/operated by a continuing care retirement community under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(a), RCW 70.38.111(5), and Washington Administrative Code (WAC) 246-310-020(1) and WAC 246-310-041.

APPLICATION CHRONOLOGY

June 20, 2005	Letter of Intent Submitted
July 27, 2005	Application Submitted
August 1, 2005 through February 14, 2006	Department's Pre-Review Activities <ul style="list-style-type: none">• 1st screening activities and responses• 2nd screening activities and responses
February 15, 2006	Department Begins Review of the Application <ul style="list-style-type: none">• public comments accepted throughout review

APPLICATION CHRONOLOGY (continued)

April 4, 2006	Public Hearing Conducted/ End of Public Comment
April 19, 2006	Rebuttal Documents Submitted to the Department
June 5, 2006	Department's Anticipated Decision Date
October 3, 2006	Pivotal Unresolved Issued (PUI) Declared
October 6, 2006	Applicant's Response to PUI
October 31, 2006	Department's Anticipated Revised Decision Date
October 25, 2006	Department's Revised Decision Date

AFFECTED PERSON(S)

Throughout the review of this project, one entity sought affected person status--LCS Development. On July 7, 2006, LCS Development was issued Certificate of Need #1312 approving the establishment of a 58-bed nursing home within a Type A CCRC located in the city of Issaquah within King County. The LCS Development CCRC, known as Talus, is in the marketing stage and is not expected to become operational until January 2008. Given that LCS Development is also marketing its CCRC to King County residents, the department granted LCS Development affected person status under WAC 246-310-010.

As noted in the chronology above, on October 3, 2006, the department declared a Pivotal Unresolved Issue (PUI) related to this project. [WAC 246-310-160(2)(b)] The PUI focused on references to Medicaid reimbursement and funding within specific documents in the application. The definition of Type A CCRC precludes CCRC from collecting any Medicaid dollars after the five-year transition period. [WAC 246-310-010]

On October 6 2006, PRS provided revised documents to address the department's concerns related to the PUI. As an affected person, LCS Development was allowed an opportunity to provide comments related to the PUI documents; however, on October 11, 2006, LCS Development informed the department that it did not intend to provide any comments related to the PUI documents.

SOURCE INFORMATION REVIEWED

- Pacific Retirement Services, Inc.'s Certificate of Need Application received July 27, 2005
- Pacific Retirement Services, Inc.'s supplemental information dated November 2, 2005, and February 7, 2006
- Public comment and documents received at the April 4, 2006, public hearing
- Pacific Retirement Services, Inc.'s rebuttal documents dated April 13, 2006
- Population data obtained from the Office of Financial Management
- Data obtained from the Internet regarding mileage and distance
- Data obtained from Pacific Retirement Services, Inc.'s website at www.retirement.org
- Certificate of Need historical files
- Actuarial Study provided by the Sonata Group, LLC received July 28, 2006, related to documents provided in Pacific Retirement Services, Inc.'s application

CRITERIA EVALUATION

To obtain Certificate of Need approval, Pacific Retirement Services, Inc must demonstrate compliance with the criteria found in WAC 246-310-210 [need]; 246-310-220 [financial feasibility]; 246-310-230 [structure and process of care]; 246-310-240 [cost containment]; and 246-310-380(4) [nursing home bed need standards related to CCRCs].³

CONCLUSION

To ensure that both Mirabella CCRC and, specifically, Mirabella NH would have appropriate relationships with ancillary and support services within King County, Pacific Retirement Services, Inc. must agree to the following terms:

- 1) Prior to commencement of the project, Pacific Retirement Services will obtain and submit a signed agreement with Department of Social and Health Services stating that it does not intend to enter into a Medicaid contract with the Department of Social and Health Services for this project
- 2) Prior to providing services at Mirabella CCRC, Pacific Retirement Services will provide an executed (signed) copy of the following documents that were provided in draft form:
 - Management Agreement for Management of the CCRC [Application, Appendix II]
 - Medical Director Agreement [November 2, 2005, Attachment 6]
- 3) Prior to providing services at Mirabella CCRC, Pacific Retirement Services will provide a final copy of the following documents that were provided in draft form:
 - Mirabella Program Book [Application, Appendix A]
 - Mirabella Deposit Escrow Agreement [Application, Appendix L]
 - Admission Agreement for Mirabella NH--Contract Residents [October 6, 2006, PUI document]
 - Admission Agreement for Mirabella NH--Non-Contract Residents [October 6, 2006, PUI document]
 - Charter Member Resident and Care Agreement [October 6, 2006, PUI document]
 - Mirabella Month to Month Assisted Living Residence Agreement [October 6, 2006, PUI document]
 - Mirabella Non-Refundable Entrance Fee Assisted Living Residency Agreement [October 6, 2006, PUI document]

Provided Pacific Retirement Services agrees to the terms outlined above, a Certificate of Need would be issued to Pacific Retirement Services, Inc approving the establishment of a Type A CCRC in the city of Seattle, within King County, with the following condition:

1. The Admission Agreement for Mirabella NH--Non-Contract Residents shall not be used after the Mirabella CCRC completes its five year transition period as defined in WAC 246-310-010.

The approved capital expenditure for this project is \$7,129,000, which is attributed to the 22-bed nursing home within the CCRC.

³ Each criterion contains certain sub-criteria. The following sub-criteria are not discussed in this evaluation because they are not relevant to this project: WAC 246-310-210(3), (4), (5), and (6).

A. Need (WAC 246-310-210)

Based on the source information reviewed and subject to the terms outlined on pages 5 and 6, the department determines that the applicant has met the need criteria in WAC 246-310-210(1) and (2) and WAC 246-310-380(4).

- (1) *The population served or to be served has need for the project and other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet that need.*

The Department of Health's Certificate of Need Program is responsible for evaluating the need for establishment of new nursing homes in the state, which includes nursing homes associated with CCRCs and freestanding nursing homes. In the case of freestanding nursing homes, part of the evaluation includes a numeric methodology using a statewide established ratio of 40 beds per 1,000 population over 65 years of age (40/1,000). Additionally, any person may be admitted into a freestanding nursing home provided that there is a bed available and the nursing home can meet the care needs of that person. There is no membership fee or entrance fee, and the range of services is not contractually guaranteed. Care in freestanding nursing homes is usually paid by the resident, Medicare, Medicaid, or a combination of the three.

For nursing homes associated with CCRCs as defined in WAC 246-310-010, the department limits to 300 the total number of nursing home beds, statewide, which may be granted to a nursing home in transition. [source: WAC 246-310-280(4)] A transition period is a period of time, not exceeding five years, between the date a CCRC is inhabited by a member, and the date it fully meets the requirements of a CCRC. The purpose of a transition period is to allow a CCRC nursing home to be operated from its inception on a financially feasible basis by allowing it to generate revenue from admission of patients from the general population until the CCRC membership generates sufficient internal demand for care to sustain itself with member revenues and other CCRC support. In addition, the transition period enables the CCRC to provide service to patients who would otherwise be cared for in freestanding nursing homes in the area.

As of the writing of this evaluation, there are two nursing homes operating within two separate CCRCs in Washington State:

- Corwin Care Center at Emerald Heights located in the city of Redmond is licensed for 56 CCRC beds; and
- Rockwood South located in the city of Spokane is licensed for 45 CCRC beds.

Both of the above CCRCs have completed their transition period and are currently operating as a CCRC defined in WAC 246-310-010. As stated on page four of this evaluation, on July 7, 2006, LCS Development was issued Certificate of Need #1312 approving the establishment of a 58-bed nursing home within Talus to be located in the city of Issaquah within King County. The LCS Development CCRC is in the marketing stage and is not expected to become operational until January 2008. As a result, it is not yet in the transition stage. Given that Talus is not yet operational, the department must subtract the approved 58 beds from the 300 statewide dedicated CCRC beds, resulting in 242 available Type A CCRC beds.

To ensure success of the CCRC and demonstrate compliance with this sub-criterion, the applicant commissioned an actuarial financial study of the retirement community by the actuarial consulting firm of AV Powell & Associates, LLC. This study was performed by staff in the Chesterfield

Missouri office. The level of need for nursing home beds at Mirabella CCRC was calculated as part of the actuarial study. The AV Powell study did not incorporate an independent analysis of the retirement community market in King County; rather it relied on an analysis of the county's retirement community market provided by the applicant. [source: Application, Appendix W-AV Powell & Associates, Actuarial Analysis, dated July 19, 2005, pp15-17]

To assist in its review of this sub-criterion, the department commissioned a review of the applicant's actuarial study by an independent Washington State actuary. The review concluded that the applicant's study was completed in a thorough and thoughtful manner using sound actuarial techniques and addressed the issue of CCRC solvency and actuarial condition appropriately as defined by the American Academy of Actuaries.⁴ The study's Summary of Findings is quoted below.

“On an overall basis we found the actuarial study to be completed in a thorough and thoughtful manner using sound actuarial techniques. The study addressed the issue of CCRC solvency and actuarial condition appropriately as defined by the American Academy of Actuaries.

Our analysis did not reveal any major flaws in methodology or computation within the actuarial study. We did find certain values within tables provided in the study that we were not able to replicate, but not all background information from their model was provided which might explain the differences. The differences were typically relatively minor and did not significantly impact the overall findings of the study.

AVP⁵ compared Mirabella to AVP's database of CCRCs (100 plus organizations) and for a variety of measures including funded status, liquid reserve ratio, new entrant pricing actuarial surplus and 10-year reserve increase factor Mirabella placed below the median (1st or 2nd quartile). None of these findings were at a level to conclude that Mirabella could not be successful, however in aggregate they do indicate a lower margin for error when reviewing overall findings.

In conclusion, on an overall basis we did not find reason to dispute the findings of AVP within the actuarial study. However, given that the results place Mirabella relatively close to the line of satisfactory actuarial balance we believe additional emphasis should be placed on the underlying assumptions as the range of possible assumptions may impact financial results.”

Based upon the above information, the department concludes that the applicant demonstrated that the project meets the sub-criterion as it would apply to a Type A CCRC.

- (2) All residents of the service area, including low-income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly are likely to have adequate access to the proposed health service or services.

For general Certificate of Need applications, the applicant must demonstrate that all residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups would have access to the services proposed. For a Type A CCRC, the

⁴ It is noted that the study addressed factors and assumptions that could substantially impact the financial feasibility of this project. Those factors and assumptions are addressed in the financial analysis provided in this evaluation.

⁵ AVP is the abbreviation used for A.V. Powell & Associates which is the firm used by the applicant to prepare its actuarial study.

department understands that the target market for this project is limited to households age 60+ with at least \$60,000 annual income. With these limitations, the typical CCRC resident would not be considered a “low-income” resident. [source: Application, Appendix U-Market Feasibility Study] As a result, this portion of this sub-criterion is not applicable to this project.

To demonstrate compliance with this sub-criterion, the applicant provided documentation that no person(s) will be denied services at Mirabella or any of its subsidiaries solely for reasons of race, color, ethnic origin, religious belief, or sex, provided that the person(s) meets the criteria to qualify as a resident of the CCRC. Additionally, the applicant provided a copy of its Residence and Care Agreement that outlines the eligibility criterion a potential resident must meet. The CCRC Residence and Care Agreement is consistent with the criteria outlined in RCW 70.38.025(3) and the CCRC Admissions Policy is consistent with the criteria outlined in WAC 246-310-010 for a Type A CCRC. [source: October 6, 2006, PUI document-Mirabella Residence and Care Agreement]

Specific to the nursing portion of this project, PRS provided a copy of its draft Admission Agreements for Contract Residents and Non-Contract Residents. The draft agreements also demonstrate that no person(s) will be denied services at Mirabella or any of its subsidiaries solely for reasons of race, color, ethnic origin, religious belief, or sex, provided that the person(s) meets the criteria to qualify as a resident of the CCRC’s nursing home. [source: October 6, 2006, PUI documents-Draft Admission Agreement for Mirabella NH-Contract Residents and Draft Admission Agreement for Mirabella NH-Non-Contract Residents]

Regarding the Draft Admission Agreement for Non-Contract Residents, PRS provided the agreement to be used during the five year transition period only. Once the transition period for Mirabella CCRC is complete, this Admission Agreement would no longer be used by PRS for the Mirabella CCRC. To ensure that this agreement is used only through the five year transition period, the department would attach a condition to the approval identifying the limitation on the use of the Admission Agreement for Non-Contract Residents.

To further assist in its evaluation of this project, the department determined that all residents of King County currently have access to nursing home services within existing nursing homes in the county, and approval of this project would not negatively affect this access.

Based upon the above information, the department concludes that all residents of the service area would continue to have adequate access to the health services at the existing providers in the county. This project meets the sub-criterion as it would apply to a CCRC.

B. Financial Feasibility (WAC 246-310-220)

Based on the source information reviewed and subject to the terms outlined on pages 5 and 6, the department determines that the applicant has met the financial feasibility criteria in WAC 246-310-220.

(1) The immediate and long-range capital and operating costs of the project can be met.

As stated in the project description portion of this evaluation, if this project is approved, the applicant would begin marketing the CCRC immediately, and phase one would be operational approximately April 2009. Phase one includes 320 apartments, 35 boarding home units, and 22 nursing home beds. [source: Application, p3-4] Based on this timeline, year 2010 would be the first

full year of operation as a CCRC with 22 nursing home beds. As previously stated, the establishment of phase two of this project is based on the success of phase one, or five years after the opening of the CCRC. If this project is approved and the applicant maintained its CCRC status consistent with RCW 70.38.111(5), under the current statute, the 22 additional nursing home beds could be added in phase two without undergoing this type of Certificate of Need review and approval process.⁶ As a result, for this project, an evaluation of phase one is the focus of this financial review.

Using the financial information provided in the application, Table I below illustrates the projected revenue, expenses, and net income for fiscal years 2009—2014 for Mirabella NH. [source: November 2, 2005, supplemental information, Attachment 3]

Tables I
Mirabella NH Projected Revenue and Expenses Fiscal Years 2009 - 2014

	FY 2009	FY 2010	FY 2011
# of Beds	22	22	22
# of Patient Days	1,618	7,481	7,666
% Occupancy	20.1%	93.2%	95.5%
Net Revenue	\$ 488,442	\$ 2,358,315	\$ 2,468,087
Total Expense	\$ 1,134,509	\$ 2,810,428	\$ 2,919,820
Net Profit or (Loss)	(\$ 646,067)	(\$ 425,113)	(\$ 451,733)
Net Revenue per patient day	\$ 301.88	\$ 315.24	\$ 321.95
Total Expenses per patient day	\$ 701.18	\$ 375.68	\$ 380.88
Net Profit or (Loss) per patient day	(\$ 399.30)	(\$ 60.43)	(\$ 58.93)

	FY 2012	FY 2013	FY 2014
# of Beds	22	22	22
# of Patient Days	7,666	7,666	7,666
% Occupancy	95.5%	95.5%	95.5%
Net Revenue	\$ 2,518,179	\$ 2,551,470	\$ 2,583,395
Total Expense	\$ 3,009,678	\$ 3,100,608	\$ 3,195,155
Net Profit or (Loss)	(\$ 491,499)	(\$ 549,138)	(\$ 611,760)
Net Revenue per patient day	\$ 328.49	\$ 332.83	\$ 336.99
Total Expenses per patient day	\$ 392.60	\$ 404.46	\$ 416.80
Net Profit or (Loss) per patient day	(\$ 64.11)	(\$ 71.63)	(\$ 79.80)

As shown in Table I above, at the projected volumes identified in the application, Mirabella NH would be operating at a loss in the first five full years of operation. Further, the loss increases each year from 2010 through 2014. The department notes that the applicant does not intend to admit Medicaid patients into the nursing home during the CCRC transition period as defined in WAC 246-310-010. Regarding the projected loss from years 2009 through 2014, PRS provides the statements on the following page. [source: November 3, 2005, supplemental information, p5-6]

⁶ The applicant must, however, submit an exemption request as specified in WAC 246-310-041.

1. *The phase one skilled nursing facility, on a stand-alone basis, is projected to require annual operating subsidies (from project independent living and assisted living operations and available entrance fee cash) ranging from \$298,000 to \$564,000 during the transition period.*
2. *Initial equity investment and annual subsidies will allow for sufficient cash reserves (generally defined as greater than 60 days cash operating expenses including interest expense) and funds available for debt service (generally defined as 1.20 times the annual debt service requirement) for the phase one skilled nursing facility during the first full year of stabilized operations for the project as a whole (the fiscal year ending September 30, 2012).*
3. *The overall financial projections for the project indicate sufficient funds to allow projected subsidy levels for skilled nursing operations annually throughout the projection period. The projected balances of restricted cash and investments are at least \$19 million or more annually throughout the projection period.*
4. *Approximately \$1.5 million has been borrowed from bond proceeds, in addition to available entrance fee cash, to fund pre-opening and start-up working capital needs for the overall project, including phase one of skilled nursing operations.*
5. *Approximately \$807,000 of cash is projected to be generated from combined operations, including the projected operating losses of the skilled nursing facility, during the last year of the transition period (the fiscal year ending September 30, 2012). This information is included in Appendix V [within the initial application].*
6. *The project is not reliant on the Medicaid program reimbursement for its operations. Phase one skilled nursing facility payer mix will consist of private pay and Medicare residents only. As such, there is no anticipated impact on charges for nursing home services.*
7. *If necessary, PRS would also consider deferring repayment of management fees to provide sufficient working capital for skilled nursing operations in the early years of the financial projections. Annual management fees range from \$138,000 during the fiscal year ending September 30, 2009, to \$968,000 during the fiscal year ending September 30, 2012.*

Based on the above factors, PRS asserts that phase one of the Mirabella NH is financially viable.

The purpose of a transition period is to allow a CCRC's nursing home to be operated from its inception on a financially feasible basis by allowing it to generate revenue from admission of patients from the general population until the CCRC membership generates sufficient internal demand for care to sustain itself with member revenues and other CCRC support. Further, the intent of the CCRC is to admit residents into the independent and assisted living portions of the facility, rather than directly into the nursing home portion. On the basis of this approach by the applicant, the losses in the first five years of operation could be partially attributed to the admission limitation set by the applicant and the purpose of the CCRC itself.

As previously stated, the department commissioned a review of the applicant's actuarial study by an independent Washington State actuary. The review concluded that the applicant's study was completed in a thorough and thoughtful manner using sound actuarial techniques. The review also concluded that the applicant's study was based on sound methodology with reasonable assumptions; however, the review provides the following statements regarding the applicant's

study related to the financial viability of the project. [source: July 28, 2006, Sonata Group, LLC actuary study, pp5-6]

“...As discussed above we find both the findings of the actuarial study and the underlying assumptions driving the findings to be reasonable. However, given that a positive result in regards to funded status requires subsidies from new entrants and even then is not greatly in excess of 100% we believe it is appropriate to consider the underlying assumptions that may help drive the result. Both new entrant surplus and cash balances are positive (a good finding), but are dependent on underlying assumptions as well.

AVP relied on occupancy and fee level information as provided by Mirabella management. The levels provided appear reasonable, but to the extent they vary over time there may be measurable impacts to the findings of the study. There are a large number of assumptions driving the findings in the actuarial study. A select few that could impact the findings include the following:

- *New entrants – Given the unfunded liability found in the Actuarial Valuation it is necessary for new entrants to subsidize initial enrollees. The study assumes that out of a capacity of 212 independent living units there will be 202 filled at any given time once full occupancy is achieved. [95.2% occupancy] Further, turnover is expected to run at about 17 or 18 new independent living units a year. Table 5.1 finds the surplus of a new entrant (as of year 2012) to be nearly \$100,000. This is what drives the positive cash balance increases over time.*

If after the initial filling of occupancy Mirabella cannot sustain the same level of occupancy or mortality is different than expected there may be a drop in surplus being added to the cash balances (all other assumptions remaining the same). A drop of five new entrants a year would be approximately \$500,000 less a year in surplus in terms of present value. In terms of cash-flow, five less new entrants in 2012, for instance, would result in a drop of over \$3 million in entrance fees in that year. So, given the reliance on new entrants to subsidize original entrants, being able to replace turnover is important.

- *Fee increases relative to expense increases – As AVP points out, a key assumption is that fee increases outstrip expense increases for five years after full occupancy and then match expense increases thereafter. Fee information is provided by Mirabella management with expense estimates provided by AVP.*

While careful monitoring of expense and fee ratios can help mitigate this impact, other factors such as unexpected inflation and market occupancy drivers could result in fee increases not keeping pace with expense increases. In 2012 cash sources due to fees are around \$18 million with regular increases in the years thereafter. Assuming an average of around \$20 million for the period of 2012 to 2015 if fees were reduced by 5% (either fees did not increase or higher expenses resulted) will have an impact of approximately \$1 million a year reduction in cash balance. For the years 2012 to 2014 this is roughly half of the projected cash balance change. While not completely changing results for those periods it does significantly reduce the surplus under the current scenario with all other assumptions remaining constant.

- *Other expenses* – Mirabella provided expense estimates for some key categories that AVP reviewed for reasonableness, but did not independently confirm. While these estimates are probably accurate, there are occasions when unforeseen expenses can impact the financial results of an organization. In particular, unforeseen capital expenditures of any significance may have a direct impact on underlying cash balances. Other expenses, such as off-site assisted living and nursing care, can increase at a rate greater than expected and Mirabella may have but little option other than to pay. Staffing expenses (salary or wage), marketing expenses, and general administrative expenses are all items that on occasion prove difficult to predict. Misestimating these expenses by 10% could result in \$500,00 a year or more in variability cash balance.

As demonstrated above, the independent review includes a thorough assessment of the financial assumptions used by the applicant and provides results of variations of the financial assumptions as described above. The independent review provides the following conclusion:

“It is our considered opinion that the assumptions used by AVP, whether provided by Mirabella management or estimated by AVP, appear feasible. Fluctuation in these assumptions, however, could reasonably be expected to vary up or down by as much as \$1 to \$5 million or more in select years depending on turnover, occupancy, fee levels, expense levels and other factors. Depending on the timing of any such fluctuation, the impact on year-to-year cash balances could be quite noticeable.

Fee versus expense level increases also directly impact the New Entrant Fee Analysis that found a surplus of 9.5%. An across the board reduction in fees of 5%, for instance, would change this to a 4.1% surplus.

In summary, AVP showed that Mirabella has an unfunded liability status of 95.3% that is offset by surplus from new entrants of 9.5%. Cash balances are shown to increase after full occupancy is achieved and continue to do so over a 20-year period. These findings are feasible and are based on reasonable methodologies. As shown, they should be taken into consideration along with the possible random fluctuation of underlying assumptions.”

Based on the above information, the department recognizes the assumptions used by the applicant related to this criterion could vary, and therefore, could result in either a more or less financially viable project. However, using the phased-in approach provided by the applicant, the second phase of this project is dependent on the success of phase one, the department acknowledges that the applicant has the ability to delay implementation of phase two until it is deemed financially stable to proceed. On the basis of this understanding and considering the independent review, the department concludes that the project’s revenues are reasonable and this sub-criterion is met.

- (2) *The costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services.*

The applicant has elected to not accept Medicaid reimbursement at Mirabella NH during the transition period, and after the transition period Medicaid reimbursements are not allowed under the CCRC definition under WAC 246-310-010. Further, under the CCRC definition, admittance into the nursing home for non-contractual residents is also not allowed. The applicant provided the sources of patient revenue shown in the chart on the following page.

Source of Revenue	Percentage of Revenue
Private Pay	93.0%
Medicare	7.0%
Total	100%

[source: Application, p35]

As shown above, private pay is the majority revenue source for Mirabella NH. In contrast, freestanding nursing homes primarily rely on Medicaid as the larger revenue source. Based on the above information, and a review of the Disclosure Forms [Appendices K, K1, & K2], Residence and Care Agreements [PUI documents], Transition Plan [Attachment 2], Resident Handbook [Attachment 7], and the SNF Admission Agreements for Contract and Non-Contract Residents [PUI documents] provided in the application, the department concludes that approval of this project is not expected to have an unreasonable impact on charges for nursing home services. This conclusion is also evidenced by the Type A CCRC standards that obligate the Type A CCRC to care for its contracted members even if they exhaust their financial resources.

As previously stated, the capital expenditure associated with the establishment of phase one of the Mirabella CCRC project is \$175,600,000, of that amount, \$7,129,000 is attributed to the establishment of phase one of Mirabella NH--or the first 22 nursing home beds. A breakdown of the \$7,129,000 associated with the establishment of phase one of Mirabella NH is shown below. [source: Application, p29]

Item	Amount	% of Total
Construction Costs	\$ 4,050,000	56.8%
Financing Costs	1,358,000	19.1%
Land Purchase & Site Preparation	765,000	10.7%
Equipment (Fixed & Moveable)	376,000	5.3%
Washington State Sales Tax	322,000	4.5%
Architect, Engineering, & Consulting Fees	214,000	3.0%
Other Costs ⁷	44,000	0.6%
Total	\$ 7,129,000	100.0%

As shown above, the majority of the costs for this project is related to construction. Turner Construction--a company with significant experience in healthcare projects--has already been selected by the applicant for the construction. Turner Construction has already begun work on the project by providing pre-construction services, including the costs estimates. Further, PRS states it plans to adhere to the latest building codes for construction and energy conservation. [source: Application, p25]

Based on the above information, the department concludes this sub-criterion is met.

(3) *The project can be appropriately financed.*

CCRCs are typically financed using a combination of the following three sources: short-term construction loan, long-term debt, and equity. A brief explanation of each source is shown on the following page. [source: CN historical files]

⁷ Other costs includes insurance risk, building signage, miscellaneous travel and supplies.

Short-term debt

This type of loan is generally provided by a group of commercial banks. In the CCRC industry, there are four or five major banks that act as lead bank.

Long-term debt

The long-term debt for a CCRC can be any of the following types:

- mortgage with the same group of banks that provided the short-term construction loan;
- a fixed-rate taxable bond issue;
- a mortgage with an insurance company; or
- variable rate tax exempt bonds backed by a letter of credit from a bank.

Equity

This source is generally the cash used to purchase the land and to fund the preliminary development costs through presales.

To assist in evaluating its financing options for this project, PRS enlisted the investment banking and financial advisory firm known as Cain Brothers and the financing structure above was selected based on PRS and Cain Brother's experience in financing similar types of transactions and current market conditions. [source: Application, p32 and Cain Brothers website at www.cainbrothers.com] After extensive review, PRS intends to finance the project through two of the three sources above: long term debt and equity. Below is a breakdown of the funding sources for Mirabella CCRC and Mirabella NH. [source: Application, pp29-32]

	Mirabella CCRC	Mirabella NH
Long Term Debt - Bond Issue	\$ 171,600,000	\$ 4,813,000
Equity - Owners	4,000,000	2,316,000
Totals	\$ 175,600,000	\$ 7,129,000

As shown above, PRS anticipates \$171,600,000--or 98%--of the total cost for Mirabella CCRC would be funded through issued bonds. For the Mirabella NH portion of the project, 68% would be funded through bonds. PRS intends to obtain the bond funding through short, medium, and long-term financing. Approximately 55% of the bond financing would be through short-term (less than 10 years / variable rate); 36% would be long-term (30 years / fixed rate); and the remaining 9% would be medium term (10 years / variable rate). PRS anticipates both the short and medium term bonds would be repaid within four and six years, respectively.

PRS notes that the financing plan above does not use entrance fee escrow deposits as a source of funds at finance closing. Rather, PRS would advance approximately \$14.3 million to the project prior to the tax exempt bond financing to fund various costs such as architect and engineering fees, marketing fees, and some land costs. Approximately \$10.3 million of the \$14.3 million would be reimbursed to PRS from tax-exempt bond proceeds at finance closing.

PRS provided the following rationale for the above financing structure:

- lower interest rate when compared to construction loan or taxable bond issue;
- availability of credit capacity in the short and medium capital markets allows for an even lower, short term interest rate during project start-up; and
- PRS has the ability to further assist repayment of loan and deferred amounts, if necessary to meet debt service, liquidity, and operating ratio requirement during start up.

Based on the information provided and the findings of the actuary contracted with the department to review the project, the department concludes that the establishment of the entire CCRC and specifically, Mirabella NH, would not adversely affect the financial stability of the applicant, PRS. This sub-criterion is met

C. Structure and Process (Quality) of Care (WAC 246-310-230)

Based on the source information reviewed and subject to the terms outlined on pages 5 and 6, the department determines that the applicant has met the structure and process (quality) of care criteria in WAC 246-310-230.

(1) A sufficient supply of qualified staff for the project, including both health personnel and management personnel, are available or can be recruited.

For this project, Mirabella would be the owner of Mirabella CCRC including the nursing home. The applicant, PRS, proposes to enter into a management agreement with Mirabella for management of the CCRC, including the nursing home. The management agreement provided in the application is a draft and outlines the roles and responsibilities for PRS as the management entity and Mirabella as the owner. A summary of each entity’s roles and responsibilities is shown in the chart below. [source: Application, Appendix II]

Pacific Retirement Services, Inc.-Manager	Mirabella - Owner of CCRC
<p>PRE-OPENING DUTIES</p> <ol style="list-style-type: none"> 1. Provide pre-opening consulting services to owner to integrate operational concerns with the planning and design, development and marketing process. 2. Meet with the development team. 3. Provide a written monthly schedule of pre-opening activities from six months prior to initial occupancy to <u>assist</u> the owner to accomplish the following: <ul style="list-style-type: none"> • Review plans for functional relationships and create the fire and disaster plans; • Create operating budgets from operating pro-formas; • Establish wage scales and benefit packages; • Establish personnel policies and procedures; • Recruit and orient Executive Director and Health Care Administrator (if necessary); • Establish purchase order system; • Select bid, order and receive minor equipment and accessories; • Establish inventory system; • Establish operating policies and procedures by department; 	<p>PRE-OPENING DUTIES</p> <ol style="list-style-type: none"> 1. Appoint manager for day to day operations. 2. Establish policies, procedures, plans, and budgets for the CCRC. 3. Establish and maintain occupancy, rates, and charges sufficient to assure proper operations of the CCRC. 4. Meet with, and rely on, the management team to <u>assist</u> in reaching the following goals: <ul style="list-style-type: none"> • Review plans for functional relationships and create the fire and disaster plans; • Create operating budgets from operating pro-formas; • Establish wage scales and benefit packages; • Establish personnel policies and procedures; • Establish purchase order system; • Establish operating policies and procedures by department; • Approved department heads recommendations by management team; • Prepare the community and staff for licensing inspections, and approvals necessary to begin operations; • Coordinate banking functions as required; and

PRE-OPENING DUTIES

- Recruit department heads for approval by Executive Director;
- Establish menus and cycles;
- Train Executive Director and department heads;
- Prepare the community and staff for licensing inspections, and approvals necessary to begin operations;
- Coordinate banking functions as required;
- Establish bookkeeping system;
- Establish accounts with vendors;
- Purchase initial supplies and food inventory;
- Review on-going insurance coverage for the physical plant and business, established administrative procedures necessary and create staff awareness and training programs for risk management;
- Assist receiving equipment and furnishings and prepare Manager's punch list;
- Implement Community public relations plan and crisis management plan, as adopted by the owner;
- Establish and implement an apartment cleaning schedule; and
- Assist owner to affect a smooth move-in for all residents.

ON-GOING MARKETING DUTIES

Upon the community achieving 90% overall occupancy, manager shall be responsible for the on-going marketing of the community, which includes:

- Overall support of all function areas of the community (day-to-day operations)
- Support and oversight of the activities of the market team members
- Development and marketing of CCRC
- Other support and guidance based on specific needs of the community.

PRE-OPENING DUTIES

- Assist management to affect a smooth move-in for all residents.

With the exception of the Executive Director and Health Care Administrator, all persons will be employees of, or under contract with, the owner-Mirabella. As the management entity, PRS anticipates that Mirabella-NH will require 24.2 employed FTEs. Given that the implementation of phase two relies on the success of phase one, the applicant identified the staff that would be

required through phase one. A breakdown of FTEs for Mirabella NH is shown in Table II below. [source: Application, p36]

Table II
Mirabella NH Proposed FTEs

Registered Nurses	3.8	Dietitians/Aides	2.8
Licensed Practical Nurses	1.4	Dietary Total	2.8
Nursing Assistants	9.8		
Nursing Total	15.0		
Therapies (PT, OT, ST)	contracted	Administrator	1.0
Pharmacist	contracted	Activities Director	1.4
Medical Records	0.50	Medical Director	contracted
Medical Social Worker	0.50	Director of Nursing	1.0
All Others Total	1.0	Housekeeping/Maintenance	2.0
		Laundry	contracted
		Administration Total	5.4

As a management entity, PRS states that it has extensive experience developing and managing CCRCs for the past ten years. Generally, recruitment of staff for a CCRC is not difficult because of the high-quality facilities, small number of nursing home beds, and the close relationships with the residents of the CCRC. Further, PRS indicates that it typically promotes employees from within and provides training to encourage employee growth within the organization. Within the application, PRS provided a comprehensive approach to recruit and retain staff necessary for Mirabella CCRC, as well as the nursing home. [source: Application, p37-38; November 2, 2005, supplemental information, Attachments 5 & 6]

Based on the information provided in the application, the department concludes that adequate staffing for the CCRC and, specifically, the nursing home is either available or can be recruited, and this sub-criterion is met.

- (2) The proposed service(s) will have an appropriate relationship, including organizational relationship, to ancillary and support services, and ancillary and support services will be sufficient to support any health services included in the proposed project.

The application identifies that ancillary and support services would be either provided on site or contracted with a separate vendor. Given that the CCRC is not scheduled to open until approximately April 2009, ancillary and support service agreements have not yet been established. Within the application, PRS provided a listing of ancillary and support services expected to be provided by within the CCRC and those expected to be contracted through another provider. [source: Application, p38; November 3, 2005, supplemental documentation, pp6-8, Attachment 5 & 6]

Based on the information provided in the application, the department concludes that the applicant intends to meet this criterion; however, to ensure that Mirabella NH would have appropriate relationships with ancillary and support services within the community, the applicant must agree to the following terms:

- 1) Prior to providing services at Mirabella NH, the applicant must provide the department with a copy of the executed medical director agreement for review and approval. The executed agreement must be consistent with the draft agreement provided in the application.

Provided that the applicant agree to the term outlined above, the department concludes that there is reasonable assurance that PRS will have appropriate ancillary and support services at Mirabella CCRC, and specifically, Mirabella NH. This sub-criterion is met.

- (3) *There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.*

For this project, the applicant would request Medicare certification for Mirabella NH, but not Medicaid eligibility. As stated in the project description portion of this evaluation, the applicant--PRS--established the Mirabella corporation specifically to create, own, and operate the continuing care retirement community. As a result, PRS does not own or operate any healthcare facilities in Washington State. However, as of the writing of this evaluation, PRS, the proposed management entity, operates or manages a total of seven healthcare facilities in three states: three each in California and Oregon, and one in Texas. The chart below shows a breakdown of the total number of units/beds managed or operated by PRS. [source: Application, p6 and Appendix I]

Number of Units/Beds	Type of Facility
1,320	Independent Living Units
452	Skilled nursing beds, including dementia
315	Residential/Assisted Living Units

To assist in its evaluation of this sub-criterion, the department reviewed the quality of care histories from the three states where PRS has operational or management responsibilities for healthcare facilities. All three states indicated minor non-compliance issues typical of the type of healthcare facility being surveyed. [source: compliance survey data provided by CMS] According to documents obtained by CN staff, PRS resolved all non-compliance issues and no disciplinary actions were taken by the out-of-state surveying agencies.

Given the compliance history of all of the health care facilities operated or managed by PRS, there is reasonable assurance that Mirabella CCRC and, specifically, Mirabella NH, would be operated in conformance with applicable state and federal licensing and certification requirements. This sub-criterion is met.

- (4) *The proposed project will promote continuity in the provision of health care, not result in an unwarranted fragmentation of services, and have an appropriate relationship to the service area's existing health care system.*

To demonstrate that this project will have an appropriate relationship with the service area's existing healthcare system, the applicant provided the following statements.

"As we proceed with the approvals and development, we will negotiate transfer agreements and relationships with local providers. We will also inform local providers, the Area Agency on Aging, and all local home health agencies of our project. We do not allow open soliciting on our campuses, but we do provide information to our residents of available services in our community."

[source: Application, p40]

The department recognizes the differences in continuity of care between freestanding nursing homes and Type A CCRCs. For freestanding nursing homes, continuity of care may involve many community healthcare providers that are not necessarily associated with the nursing home. For a

Type A CCRC, continuity of care is typically provided with the CCRC itself by offering independent living, assisted living, and nursing home care to its residents. For this project, the applicant provided documentation to demonstrate continuity of care within the CCRC. To further demonstrate compliance with this sub-criterion, the department reviewed the following twelve executed documents provided by the applicant. [sources as noted]

- Mirabella Residence and Care Agreement [October 6, 2006, PUI document]
- Private Duty Attendants Policies and Procedures [Application, Appendix E]
- Washington Association of Housing and Services for the Aging (WAHSA) CCRC Disclosure Form [Application, Appendix K]
- WAHSA CCRC Disclosure Statement [Application, Appendix K1]
- Mirabella Boarding Home Disclosure Statement [Application, Appendix M]
- Admission Policy [Application, Appendix Y]
- Transition Plan for Skilled Nursing Facility [November 2, 2005, Attachment 2]
- Job Description for Key Personnel [November 2, 2005, Attachment 5]
- Resident Handbook [October 6, 2006, PUI document]
- Purchase and Sale Agreement for site [November 2, 2005, Attachment 11]
- Summary of Lease Agreements & Service Contracts [November 2, 2005, Attachment 12]
- Board and Care Agreement (Monthly Fee Residents) [October 6, 2006, PUI document]

All 12 documents listed above demonstrated compliance with the requirements of a Type A CCRC.

PRS also provided the following nine documents in draft format. [sources as noted]

- Draft Mirabella Program Book [Application, Appendix A]
- Draft Mirabella Deposit Escrow Agreement [Application, Appendix L]
- Draft Management Agreement for Management of the CCRC [Application, Appendix II]
- Draft Medical Director Agreement [November 2, 2005, Attachment 6]
- Draft Admission Agreement for Mirabella NH--Contract Residents [October 6, 2006, PUI document]
- Draft Admission Agreement for Mirabella NH--Non-Contract Residents [October 6, 2006, PUI document]
- Draft Charter Member Resident and Care Agreement [October 6, 2006, PUI document]
- Draft Mirabella Month to Month Assisted Living Residence Agreement [October 6, 2006, PUI document]
- Draft Mirabella Non-Refundable Entrance Fee Assisted Living Residency Agreement [October 6, 2006, PUI document]

All nine draft documents listed above demonstrate PRS's intent to comply with the requirements of a Type A CCRC. To ensure compliance with this sub-criterion, PRS must agree to provide the department the final or executed documents before providing services at Mirabella CCRC. Terms related to the draft documents are stated below.

- 1) Prior to providing services at Mirabella CCRC, the applicant will provide a copy of the final Mirabella Program Book. The final document shall be consistent with the draft document provided in the application.
- 2) Prior to providing services at Mirabella CCRC, the applicant will provide a copy of the final Mirabella Deposit Escrow Agreement. The executed agreement shall be consistent with the draft agreement provided in the application.

- 3) Prior to providing services at Mirabella CCRC, the applicant will provide a copy of the executed Management Agreement for Management of the CCRC. The executed agreement shall be consistent with the draft agreement provided in the application.
- 4) Prior to providing services at Mirabella CCRC, the applicant will identify the proposed medical director at for the CCRC and Mirabella NH and provide a copy of the executed medical director agreement. The executed agreement shall be consistent with the draft agreement provided in the application.
- 5) Prior to providing services at Mirabella CCRC, the applicant will provide a copy of the final Admission Agreement for Mirabella NH--Contract Residents. The executed agreement shall be consistent with the draft agreement provided in the application.
- 6) Prior to providing services at Mirabella CCRC, the applicant will provide a copy of the final Admission Agreement for Mirabella NH--Non-Contract Residents. The executed agreement shall be consistent with the draft agreement provided in the application.
- 7) Prior to providing services at Mirabella CCRC, the applicant will provide a copy of the final Charter Member Resident and Care Agreement. The executed agreement shall be consistent with the draft agreement provided in the application.
- 8) Prior to providing services at Mirabella CCRC, the applicant will provide a copy of the final Mirabella Month to Month Assisted Living Residence Agreement. The executed agreement shall be consistent with the draft agreement provided in the application.
- 9) Prior to providing services at Mirabella CCRC, the applicant will provide a copy of the final Mirabella Non-Refundable Entrance Fee Assisted Living Residency Agreement. The executed agreement shall be consistent with the draft agreement provided in the application.

The department also notes that the one operational CCRC in King County, Corwin Care Center at Emerald Heights, did not provide any information--support or opposition--regarding this project. LCS Development, the affected person for this project, requested and attended the April 4, 2006, public hearing. However, the focus of LCS Development's concerns are related to whether the project, as presented, met the definition of a "Type A CCRC" as outlined in Certificate of Need Program rules and regulations. By declaring the PUI, the department addressed the concerns raised by LCS Development. No information was submitted by LCS Development related to any impact--either negative or positive--would result if this project is approved.

Based on the information provided above, the department concludes that approval of this project is warranted and it would not result in an unwarranted fragmentation of CCRC nursing home services. Further, provided the applicant agreement to the nine terms outlined above, the department would conclude that this sub-criterion is met.

- (5) *There is reasonable assurance that the services to be provided through the proposed project will be provided in a manner that ensures safe and adequate care to the public to be served and in accord with applicable federal and state laws, rules, and regulations.*

This sub-criterion is addressed in sub-section (3) above and is considered met.

D. Cost Containment (WAC 246-310-240)

Based on the source information reviewed and subject to the terms outlined on pages 5 and 6, the department determines that the applicant has met the cost containment criteria in WAC 246-310-240.

(1) *Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable.*

Establishment of a CCRC is a major time and financial undertaking by an applicant. The department, in its review of this type of project, acknowledges the extensive commitment by a CCRC applicant, therefore, an applicant is required to provide a market analysis, financial plan, and actuarial study to demonstrate its commitment to the project. For this project, those documents were provided with the initial submission of the application in July 2005. [source: Application, pp41-42, Appendices U, V, & W; November 2, 2005, supplemental information, Attachment 13]

Information provided in both the market analysis and actuarial studies demonstrate that the applicant reviewed and considered other areas in Washington State before settling on the Seattle area. Additionally, the applicant states it would offer residents assisted living service and skilled nursing services at fees dramatically lower than those of non-CCRC health care facilities. Further, the applicant states that a CCRC is a superior alternative for seniors capable of paying the entrance and monthly fees associated with an independent living apartment, because the long term care needs are included at relatively minor costs above the monthly fee. In addition, as stated in the Residence Agreement, if the resident is unable to pay the monthly charges in the future, they can continue to receive care needed at reduced or no cost for as long as the resident survives.

The department recognizes that this project allows a third CCRC in the King County area. As previously stated, neither the operational CCRC nor the recently approved CCRC in the county provided any information in support or opposition to this project. Therefore, the department must infer from this lack of action that no substantial negative impact is expected by approval of this project. On the basis of the information above, the department concludes that establishment of a third CCRC in King County, and specifically Mirabella CCRC, is the best available alternative for the community, and this sub-criterion is met.

E. Performance Standards for Health Service Project of CCRCs (State Health Plan, Volume II, Continuing Care Retirement Communities)

Based on the source information reviewed and subject to the terms outlined on pages 5 and 6, the department determines that the applicant has met the performance standards outlined in the 1987 State Health Plan (2) and (3) as they relate to this project.

For Type A CCRC projects, the department must conclude that the PRS project meets the performance standards outlined in the State Health Plan for CCRCs.

(2) Any nursing home project which is undertaken by or as part of a CCRC shall meet all of the following performance standards.

(a) The project shall be financially and actuarially feasible, and shall contain costs, as demonstrated by all of the following:

(i) Submission of a feasibility study and financial plan based on marketing analysis, relevant literature, experience of other similar CCRCs, and specific actuarial study (ten-year minimum timeframe) which includes the components listed in Section I of Appendix B of this plan.

To demonstrate compliance with this standard, PRS submitted a Market Feasibility Study performed by Ward Senior Consulting, Inc., (Ward) a consulting group located in Bloomington Minnesota. In April 2004, PRS contracted with Ward to complete a market study for a CCRC to be developed in downtown Seattle. When the study was complete, PRS began to market the project and determined that it was drawing interest from an area larger than the primary service area initially identified in the study. As a result, PRS again contracted with Ward to conduct an updated demand analysis of the proposed CCRC. The updated study concluded:

- 1) inclusion of five additional zip codes is warranted, which results in a total of 29 zip codes;
- 2) with the five additional zip codes, there are 18, rather than 16, independent living communities currently operating within the market area, and these 18 communities had a combined total of 2,243 units that would potentially compete with the Mirabella project; and
- 3) with the five additional zip codes, there are 7, rather than 3, planned independent living communities that would begin operating within the market area, which equated to another 730 new units that would potentially complete with the Mirabella project.

The updated Market Feasibility Study concluded that the Seattle market is a mature senior housing market and could support the 212 independent living units proposed by the Mirabella project. [source: Application, Volume II, Appendix U]

(ii) submission of an actuarial opinion, written and signed by a qualified actuary as defined in WAC 284-05-060, which indicates the likely feasibility of the project based on the feasibility study and financial plan [see (2)(a)(i) above] and the model contract [see (2)(c)(i) below].

To demonstrate compliance with this standard, PRS submitted an Actuarial Report performed by AV Powell and Associates, LLC in Chesterfield Missouri.⁸ AV Powell and Associates (AVP) employs actuaries, accountants, and health care consultants who that specialize in research and consultation within the CCRC industry.

⁸ AV Powell and Associates has offices in Atlanta Georgia, Plymouth Massachusetts, and Chesterfield Missouri.

The actuarial report provided by AVP is based on an April 2009 opening date for the CCRC. The report asserts that the assumptions and projections used in the report form a reasonable basis for evaluating the long-term financial condition of Mirabella. The report acknowledges that Mirabella would have an unfunded liability after full occupancy is achieved under the application of traditional actuarial standards. The AVP concludes that the project meets the objectives of satisfactory actuarial balance, even though there would be an unfunded liability using traditional actuarial methods. [source: Application, Volume II, Appendix W and November 2, 2005, supplemental information, Attachment 13]

- (iii) *Determination upon advisory review of the feasibility study and financial plan [(2)(a)(i)], the actuarial opinion [(2)(c)(i)] by the Office of the Insurance Commissioner (or if this cannot be arranged, by an independent, qualified actuary contracted by [DOH], that the project is likely to be financially and actuarially feasible.*

As stated in the need portion of this evaluation, the department commissioned a review of the applicant's actuarial study by an independent Washington State actuary. The review concluded that the applicant's study was completed in a thorough and thoughtful manner using sound actuarial techniques and addressed the issue of CCRC solvency and actuarial condition appropriately as defined by the American Academy of Actuaries. [source: July 28, 2006, Sonata Group, LLC actuary study]

- (iv) *Submission of a written, legally binding commitment, supported by provisions of the model contract, that the CCRC shall maintain actuarially sound pricing structure and reserves or other mechanisms to assure future service obligations, based on actuarial restudy as necessary.*

This standard was confirmed to be met by review of the CCRC's Fee Schedule and the Fee Schedule specific to Mirabella. [source: Application, Appendices N and O]

- (v) *Submission of an escrow plan, including identification of escrow agents and a copy of executed escrow agreements, and a statement of anticipated application of all escrows, which meets all requirements listed in Section 2 of Appendix B of this plan.*

To demonstrate compliance with this standard, PRS submitted a draft Deposit Escrow Agreement. The draft agreement demonstrates that PRS intends to meet this standard, however, to ensure that the project will continue to meet this standard, within the Structure and Process of Care review of this evaluation, the department attached a term requiring PRS to submit an executed copy of the Escrow Agreement. [source: Application, Appendix L]

- (b) *The project shall provide consumers (members and prospective members) with an accurate basis for informed decisions about CCRC participation and purchase (through this means) of nursing home or other health services. This shall be demonstrated by submitting a written, legally binding commitment, supported by provisions of the model contract to disclose all information listed in Section 3 of Appendix B to consumers prior to offering a contract for sale (or, in the case of current members who have not received a complying initial disclosure, upon receiving state approval of any service or facility change), with updated disclosure of changes at least annually to members.*

This standard was confirmed to be met by review of the following documents provided in the application:

- Resident Handbook [October 6, 2006, PUI document]; and
- Draft Mirabella Deposit Escrow Agreement [Application, Appendix L]

(c) *In order to provide a firm basis for actuarial analysis and feasibility determination, and to document binding commitments to meet other performance standards, the project sponsor shall submit the following documentation related to contracts which are or will be used:*

(i) *A model continuing care contract (between the CCRC and the member) which contains the provision listed in Section 3 of Appendix B.*

Compliance with this standard was demonstrated by PRS's submission of the following documents provided in the application:

- Admission Policy [Application, Appendix Y];
- Draft Admission Agreement for Mirabella NH--Contract Residents [October 6, 2006, PUI document];
- Draft Admission Agreement for Mirabella NH--Non-Contract Residents [October 6, 2006, PUI document]; and
- Draft Charter Member Resident and Care Agreement [October 6, 2006, PUI document].

(ii) *A model waiting list agreement covering deposit amounts; any other fees, refund amounts in the events of admission, rejections of application or withdrawal of application; the amount of interest (if any) to be paid on deposits; the maximum time within which a required refund will be given to the contractee; and provisions for obtaining information on the likely time before a vacancy will occur.*

Compliance with this standard was demonstrated by PRS's submission of the following documents provided in the application:

- Draft Mirabella Deposit Escrow Agreement [Application, Appendix L];
- Draft Admission Agreement for Mirabella NH--Contract Residents [October 6, 2006, PUI document]; and
- Draft Admission Agreement for Mirabella NH--Non-Contract Residents [October 6, 2006, PUI document].

(iii) *A written, legally binding commitment that the CCRC will continue to use either the model contract or, in the event of contract changes, future contracts which also satisfy all requirements in this section of Volume II of the State Health Plan as of the date of project approval; and that any contract for transfer of any part of the CCRC will require the transferee to comply with these requirements.*

Compliance with this standard was demonstrated by PRS's submission of the following document provided in the application:

- Draft Mirabella Program Book [Application, Appendix A]

(d) *If the project is a nursing home, it shall meet performance standards in Section B.4.a. of Volume II of the State Health Plan, with the exception that Type A CCRCs approved under the provisions of CCRC Performance Standard (4) below, shall not be subject to the area bed need limits in Nursing Home Performance Standard B.4.a.(2).*

(3) *To be considered a Type a CCRC, a CCRC shall demonstrate that it meets the following performance standards (in addition to those in (2) above):*

(a) *From the start of operations (or the date of state project approval, if later), the CCRC shall contractually provide or arrange for at least the following specific services for its members:*

- *Residential (independent living) units;*

- *Nursing home care (including skilled nursing) without any limitation on days of care which is unrelated to medical need. This scope of nursing care must be provided for in the CCRC's contracts with members, but potentially could involve a higher monthly charge for persons receiving nursing care than those living independently;*
- *Some form of assistance with activities of daily living; and*
- *Services which are equivalent in the scope to state chore services (including 'individual provider' services) and to Medicaid home health services for at least those members who otherwise would be eligible for such state-funded programs.*

Compliance with this standard was demonstrated by PRS's submission of the following documents provided in the application:

- Mirabella Residence and Care Agreement [October 6, 2006, PUI document];
- Private Duty Attendants Policies and Procedures [Application, Appendix E];
- Mirabella Boarding Home Disclosure Statement [Application, Appendix M];
- Admission Policy [Application, Appendix Y];
- Board and Care Agreement (Monthly Fee Residents) [October 6, 2006, PUI document];
- Draft Mirabella Program Book [Application, Appendix A];
- Draft Admission Agreement for Mirabella NH--Contract Residents [October 6, 2006, PUI document];
- Draft Admission Agreement for Mirabella NH--Non-Contract Residents [October 6, 2006, PUI document];
- Draft Charter Member Resident and Care Agreement [October 6, 2006, PUI document];
- Draft Mirabella Month to Month Assisted Living Residence Agreement [October 6, 2006, PUI document]; and
- Draft Mirabella Non-Refundable Entrance Fee Assisted Living Residency Agreement [October 6, 2006, PUI document].

(b) *By the end of a transition period not exceeding five years from the date the first CCRC member takes up residents in any CCRC area under a Type a continuing care contract (or, if sooner, from the date the first patient enters the nursing home unit), the CCRC:*

- *Shall not have a Medicaid contract for its nursing home unless this a contract limited to continuation of payment for specific individuals who are not CCRC members and entered the nursing home unit during the CCRC's transition period as permitted in (3)(c).*
- *Shall not have a congregate care contract for any area which is licensed as a boarding home, unless this is a contract limited to continuation of payment for specific individuals who are not CCRC members and entered the boarding home unit during the CCRC's transition period as permitted in (3)(c).*
- *Shall be providing, as required by (3)(a), services meeting needs of any members which otherwise would render those members eligible for state-supported chore services or Medicaid home health services.*

Compliance with this standard was demonstrated by PRS's submission of the following document provided in the application:

- Transition Plan for Skilled Nursing Facility [November 2, 2005, Attachment 2].

(c) *By the end of a transition period not exceeding five years, the CCRC shall admit to its nursing home services only members who have signed continuing care contracts. However,*

nonmembers admitted earlier during a transition period (see (e) below) shall be permitted to remain for as long as they have medical need for nursing home care.

Compliance with this standard was demonstrated by PRS's submission of the following document provided in the application:

- Draft Admission Agreement for Mirabella NH--Contract Residents [October 6, 2006, PUI document];
- Draft Admission Agreement for Mirabella NH--Non-Contract Residents [October 6, 2006, PUI document]; and
- Draft Charter Member Resident and Care Agreement [October 6, 2006, PUI document].

(d) The CCRC shall provide written, legally binding assurances that conditions (3)(a), (b) and (c) will be met. These assurances must include a signed agreement with DSHS Aging and Adult Services Administration which either stipulates that a Medicaid contract will not be sought, or else limits any Medicaid contract to the restrictions in (3)(b).

Throughout the application, PRS stated that it does not intend to enter into a Medicaid contract with the Department of Social and Health Services for this project. This is position was also restated at the April 4, 2006, public hearing; and again within PRS' rebuttal documents. However, PRS did not submit a signed agreement with DSHS that stipulates a Medicaid contract will not be sought. To ensure that PRS will comply with the information demonstrated in the application and not seek a contract with DSHS, the department would attach a term to the approval requiring PRS to obtain and submit the documentation to comply with this standard.

(e) If a Type A CCRC wishes to exercise a transition period, it shall submit a transition plan which describes whether and for how long nonmembers will be admitted to the nursing home unit; whether and for how long a Medicaid contract will be sought for the nursing home unit; and whether and for how long a congregate care contract will be sought for any boarding home unit. If there will be a congregate care or Medicaid nursing home contract, the CCRC shall document arrangements for the continuing financial support of any nonmembers remaining as indigent patients after the end of the transition period. The transition plan shall include a written, binding assurance that every nonmember admitted to the CCRC's nursing home unit (during a transition period) shall be informed at the time of nursing home admission of the particulars of the transition plan and how they affect the person's rights and charges. The transition plan shall include a sample disclosure statement for this purpose, written in plain English.

Compliance with this standard was demonstrated by PRS's submission of the following document provided in the application:

- Washington Association of Housing and Services for the Aging (WAHSA) CCRC Disclosure Form [Application, Appendix K];
- WAHSA CCRC Disclosure Statement [Application, Appendix K1]; and
- Transition Plan for Skilled Nursing Facility [November 2, 2005, Attachment 2].

Provided that PRS meets the ten terms identified on pages 5 and 6 of this evaluation, the department determines that the applicant has met the performance standards outlined in the 1987 State Health Plan (2) and (3) as they relate to this project.